

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

IN RE:)	Chapter 11
)	
HAYES LEMMERZ INTERNATIONAL)	No. 01-11490 (MFW)
INC., et al.)	Jointly Administered
)	
Debtors.)	
)	
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)	
HLI CREDITOR TRUST,)	
)	
Plaintiff,)	
)	
-vs-)	Adv. Proceeding No. 03-58493
)	
METAL TECHNOLOGIES, INC., d/b/a)	
METAL TECHNOLOGIES)	
WOODSTOCK, LTD.)	
Defendant.)	
)	

BRIEF IN SUPPORT OF
DEFENDANT'S MOTION FOR
CORRECTION OF CLERICAL MISTAKE
OR TO ALTER OR AMEND JUDGMENT

The parties stipulated in their Joint Pretrial Memorandum that "Defendant's full name is Metal Technologies Woodstock Corporation f/k/a Metal Technologies Woodstock, Ltd." (Joint Pretrial Memorandum, Paragraph G of Section V, p. 6.) In its Opinion explaining the Judgment, this Court identified the defendant as Metal Technologies, Inc. d/b/a Metal Technologies Woodstock Ltd., which is a misnomer. Defendant Woodstock is a subsidiary corporation two steps removed from Metal Technologies, Inc. (*see id.*, Paragraph H of Section V, p. 6.)

Paragraph 5 of this Court's February 23, 2005, General Order Re: Pretrial Procedures in Adversary Proceedings Set For Trial Before Judge Paul B. Lindsey states as follows: "The Joint

Pretrial Memorandum shall govern the conduct of the trial and shall supersede all prior pleadings in the case." Defendant Woodstock respectfully requests that the January 26, 2006, Judgment be corrected to reflect the proper defendant, per the parties' Joint Pretrial Memorandum.

Rule 9024 of the Federal Rules of Bankruptcy Procedure incorporates Rule 60(a) of the Federal Rules of Civil Procedure. The pertinent portion of F.R.Civ.P. 60(a) provides as follows:

Clerical mistakes in judgments, orders, or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders.

This Court's reference in its Opinion to " Metal Technologies, Inc. d/b/a Metal Technologies Woodstock Ltd." probably hearkens back to the original complaint and the caption used on court filings since the beginning of this case. F.R.Civ.P. 60(a) provides the mechanism to correct this misnomer. *See Hodge ex rel. Skiff v. Hodge*, 269 F.3d 155, 158 (2d Cir. 2001)("the request of plaintiff's counsel to correct the October 13 judgment to reflect the defendant's correct name was clearly a motion under Rule 60(a)"); *Kokomo Tube Co. v. Dayton Equipment Services Co.*, 123 F.3d 616, 623-624 (7th Cir. 1997)(Rule 60(a) authorized the court to correct its inadvertent reference to the wrong defendant in the judgment).¹

Alternatively, Rule 9023 of the Federal Rules of Bankruptcy Procedure incorporates Rule 59(e) of the Federal Rules of Civil Procedure, which permits this Court to alter or amend its Judgment. This rule allows courts to make a broad range of substantive changes to a judgment. *See Federal Practice and Procedure*, Vol. 11, §2810.1 at 121. However, Defendant Woodstock

¹ In addition to the parties' specific stipulation, numerous exhibits admitted jointly identified the proper defendant as Metal Technologies Woodstock, Ltd. *See* Stipulated Exhibits S10, S12, S14, S15, S21, S22, S23, S24, S25, S26, S27, S28, S29, and S30. In addition, witnesses Greg M. Riker and Frank A. Staudinger testified regarding the distinction between Metal Technologies Woodstock, Ltd., and its parent corporation twice removed, Metal Technologies, Inc. This testimony was never challenged.


respectfully submits that correcting the identity of the defendant in this case, in accordance with the Joint Pretrial Memorandum, requires no substantive change to the Judgment.

For the reasons set forth in this brief and evident from the parties' stipulations in their Joint Pretrial Memorandum, Defendant Woodstock respectfully requests that the Judgment in this case be corrected to reflect that the proper defendant is Metal Technologies Woodstock Corporation f/k/a Metal Technologies Woodstock, Ltd.

Dated: January 31, 2006

Respectfully submitted,

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